

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF NEBRASKA

JEROME DAVIS,)	
)	
Plaintiff,)	4:06CV3002
)	
v.)	
)	
DR. DANAHER, et al.,)	ORDER
)	
Defendants.)	
_____)	

This matter is before the Court on plaintiff's affidavit and application to proceed *in forma pauperis* (Filing No. 42). Plaintiff states in his notice of appeal and motion for leave to proceed *in forma pauperis* (Filing No. 41) that he did not receive a copy of the Court's memorandum opinion (Filing No. 34) and order and judgment (Filing No. 35) wherein this action was dismissed on June 20, 2006.

The Court record does not indicate that these filings were returned as undeliverable. The Court has no reason to believe plaintiff did not receive them. Accordingly,

IT IS ORDERED:

1) Plaintiff's application to proceed *in forma pauperis* is granted;

2) Plaintiff's appeal is dismissed as not timely filed.

DATED this 12th day of April, 2007.

BY THE COURT:

/s/ Lyle E. Strom

LYLE E. STROM, District Judge
United States District Court